

Waste Management / Site Remediation Permit Streamlining Task Force Meeting Notes 2/22/01

The first meeting of the Waste Management / Site Remediation Permit Streamlining Task Force was held on February 22, 2001 in Conference Room A in 235 Promenade Street in Providence. The attendance is listed in Attachment A. The Director opened the meeting indicating that this is one of a series of Task Forces that has been used to evaluate the way the department is conducting its business practices. DEM is using the Task Force mechanism to make processes more user-friendly and to improve the quality of decision making. The director stressed that DEM takes its environmental care-taking responsibilities seriously and this forum will be a way to listen to the concerns of the impacted constituencies. DEM is soliciting feedback on the strengths and weaknesses of the program and the task force will investigate regulatory, policy and administrative means to achieve these improvements.

The Task Force will focus on the Site Remediation program, but will listen to any other concerns raised about the Office of Waste Management. It is DEM's goal to complete the work of the Task Force in six months.

The group was then requested to state their areas of concern. The issues were documented as regulatory, policy or administrative issues (Attachment B). The issues raised, from the perspective of the task force, included the following:

1. DEM does not have sufficient staff to process all the submissions that are generated. In addition there are time delays in processing complex or non-standard submissions. The staff is not always familiar with reviewing risk assessments. One commentor suggested that some clients would pay for an impartial review of the risk assessments in order to expedite the review process.
2. The regulations should be reviewed and updated, especially the Oil Pollution Control regs. At a minimum, there is information in the regulations concerning staff contacts and phone numbers that needs to be updated.
3. Review epidemiological basis for the standard for arsenic. Concern was raised that it was from studies India that should be updated. The Director thought that this was framing the issue too narrowly. We should be looking at ways to minimize the risk to arsenic exposure and not pushing for a liberalization of the standard that allows sites to be cleaned, but also increases public exposure to risk. Jeff Kosc indicated that arsenic background levels vary from state to state and we should be relying on science when consider changing the standard.
- 3a. The Director suggested that we could set up a smaller group to study this issue. Terry Gray said the six-month time period for the interim standard will expire in May and now would be a good time to have this issue resolved.
- 3b. DEM should provide additional guidance for conducting background levels for arsenic. There is a common attitude in some quarters of a don't ask - don't tell with respect to reporting background levels of arsenic. In addition the costs of characterization of a site should be balanced with the cost of the remediation of the site.

- 3c. DEM's regulations should only be responsible for the remediation of arsenic that is the result of a spill. The Department of Health should be responsible for sites where there are values of arsenic measured that are above the health based standard. The Director thought that we should try to resolve this issue in this forum and not just push this issue over to the Department of Health for resolution.
4. We should combine the Site Investigation and the Remedial Action Work Plan into one phase of the process.
5. The regulations should also only require public notice at the time of the decision on the remedy and not public hearing. The Director mentioned that public-notice requirements should be reviewed.
6. There should be consistent remedial objectives between the, LUST and the Site Remediation programs. We should use the same language and terminology in all the regulations.
7. The submissions to the department could be improved if training could be offered to the consulting community with respect to the regulations and the process. A program could be set up, possibly through a separate entity (a Training Institute) that would give recognition to individuals who were proficient in application of the regulations. DEM should conduct consultant training / workshops on the department's expectations for site remediation submissions.
8. DEM should develop, publish and distribute guidance material and policy directives about the regulations using the DEM homepage and traditional outreach mechanisms.
9. DEM should finalize the model Settlement Agreement.
10. We should support another bond issue on Brownfields. We need to do a better job communicating with the public on the objectives of the program.
11. The state should increase the capacity and help to coordinate the efforts of municipal governments with respect to Brownfields issues. At the local levels, the municipalities should create an inventory of potential Brownfields sites in their comprehensive plans.
12. DEM should develop a policy on what constitutes urban fill. This issue comes up frequently and a policy would simplify the submission review process.
13. DEM's role in setting public health based standards through the site remediation regulations should be examined. We should ensure that we are consistent in setting risk levels in the regulations.
14. Performance tracking is a good idea, and it is important to set goals and to have QA/QC concerns addressed in the program. However there is a danger that DEM staff will find deficiencies in applications just to show that they are moving forward with their reviews and not spending the time necessary to make final decisions on the submission.
15. The regulations in some instances are cumbersome and should be reviewed for clarity. The director mentioned that we should be evaluating the regulations to determine if there are any unnecessary provisions included in them. It is difficult to draft regulation to meet all cases. Should we investigate having parties interested in site remediation performing case by case site agreements?
16. The staff can not handle the sheer volume of submissions. We should be looking at a limited certification process, perhaps for the simpler projects. The director

- suggested that we should not look at a certification program to resolve this issue. We should consider whether the certification of consultant's work product would meet the same objective.
17. DEM staff, in some instances is not experienced. Although they are competent, they may not be confident in making decisions and this often leads to conservative reviews.
 18. The process for reviewing submissions that involve property reuse should be expedited, but we should not cut corners on the review that will have an adverse impact on the environment.
 19. There was support expressed on the GrowSmart recommendations and the need to have a good inventory of sites and to have a cooperative working relationship between the state and municipalities. The Director mentioned the need to discuss Brownfields at a meeting dedicated just to this subject.
 20. Investigate creating an independent body that would be responsible for conducting audits at sites undergoing remediation. Limit this oversight to the simpler sites. This will free up state resources to work on the more complex sites.
 21. Develop a relationship with the constituencies that involve distressed properties. These properties have special needs that should be addressed. This is an issue that involves all aspects of environmental regulation.
 22. We need to look at balancing public participation with environmental equity issues.
 23. We should review the regulations concerning TPH and make them based on the individual chemical constituents of TPH.
 24. The DEM Brownfields Program should be a separate program. This would allow program staff to be an advocate for site clean remediation.

It was suggested that the Task Force meet on a monthly basis on the fourth Thursday of the month in Room 300, from 8:30 –10:00. The schedule for future meetings will be:

March 22
April 26
May 24
June 28
July 26
August 23